

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES P. SCANLAN, on behalf of himself
and all others similarly situated,

Plaintiff,

-vs.-

Civil Action No. 2:18-cv-04040-HB

AMERICAN AIRLINES GROUP INC., and
AMERICAN AIRLINES, INC.,

Defendants.

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff submits the decision attached here as **Exhibit A**, *Huntsman v. Sw. Airlines Co.*, No. 19-CV-00083-PJH, 2021 WL 391300 (N.D. Cal. Feb. 3, 2021), as supplemental authority in support of Plaintiff's Motion for Class Certification (ECF No. 82).¹

Like this case, *Huntsman* includes class claims under 38 U.S.C. § 4316 for an airline's failure to pay employees who take short-term military leave, despite paying employees who take other, comparable forms of leave. *Huntsman*, 2021 WL 391300 at *1. And, like Defendants here, Southwest Airlines argued in *Huntsman* that differences in the scheduling systems and in the benefits provided under different collective bargaining agreements would defeat commonality for any proposed class spanning multiple work groups. Compare ECF No. 98 at 22-24 with *Huntsman* at *5-7. The *Huntsman* court rejected this argument and held the plaintiff's claims raised two common questions also raised in this case: "whether paid leave is a 'right and benefit'

¹ This decision was not available on June 25, 2020, when final briefing on Plaintiff's Motion for Class Certification closed. ECF No. 101; see *Atkins v. Capri Training Ctr., Inc.*, No. 13-6820, 2014 WL 4930906, at *10 (D.N.J. Oct. 1, 2014) (if "pertinent and significant authorities come to a party's attention after the party's brief has been filed, the party may advise the court of the relevant authority through a Notice of Supplemental Authority.")

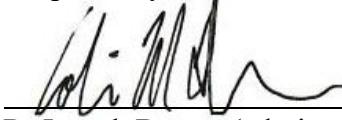
that must be provided equally under USERRA § 4316(b)” and “whether short-term military leave is comparable to” other forms of leave for which the defendant provides pay. *Id.* at *4, *8; compare ECF No. 82-1 at 7.

On March 10, 2021, the Ninth Circuit Court of Appeals denied Southwest Airline’s Petition for Permission to Appeal this decision under Fed. R. Civ. P. 23(f). *See Exhibit B.*

Plaintiff submits that the analysis of the district court in *Huntsman* should guide this Court’s consideration of the issue of whether a class spanning multiple work groups may be certified in this case.

Dated: March 24, 2021.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Colin M. Downes, hereby certify that on March 24, 2021, I electronically filed the foregoing Plaintiff's Notice of Supplemental Authority using the CM/ECF system, which sent notification of such filing to all counsel of record in this case.



Colin M. Downes